

By: West, Nelson  
Davis

S.B. No. 142

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to real property that is subject to restrictive covenants,  
3 including the operation of property owners' associations of  
4 subdivisions that are subject to restrictive covenants, and to  
5 certain foreclosure actions.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subsection (a), Section 5.006, Property Code, is  
8 amended to read as follows:

9 (a) In an action based on breach of a restrictive covenant  
10 pertaining to real property, the court shall allow to a prevailing  
11 party [~~who asserted the action~~] reasonable attorney's fees in  
12 addition to the party's costs and claim.

13 SECTION 2. Section 5.012, Property Code, is amended by  
14 amending Subsection (a) and adding Subsections (a-1), (f), and (g)  
15 to read as follows:

16 (a) A seller of residential real property that is subject to  
17 membership in a property owners' association and that comprises not  
18 more than one dwelling unit located in this state shall give to the  
19 purchaser of the property a written notice that reads substantially  
20 similar to the following:

21 NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE  
22 PROPERTY AT (street address) (name of residential community)

23 As a purchaser of property in the residential community in  
24 which this property is located, you are obligated to be a member of

1 a property owners' association. Restrictive covenants governing  
2 the use and occupancy of the property and all [~~a~~] dedicatory  
3 instruments [~~instrument~~] governing the establishment, maintenance,  
4 or [~~and~~] operation of this residential community have been or will  
5 be recorded in the Real Property Records of the county in which the  
6 property is located. Copies of the restrictive covenants and  
7 dedicatory instruments [~~instrument~~] may be obtained from the county  
8 clerk.

9 You are obligated to pay assessments to the property owners'  
10 association. The amount of the assessments is subject to change.  
11 Your failure to pay the assessments could result in enforcement of  
12 the association's [~~a~~] lien on and the foreclosure of your property.

13 Section 207.003, Property Code, entitles an owner to receive  
14 copies of any document that governs the establishment, maintenance,  
15 or operation of a subdivision, including, but not limited to,  
16 restrictions, bylaws, rules and regulations, and a resale  
17 certificate from a property owners' association. A resale  
18 certificate contains information including, but not limited to,  
19 statements specifying the amount and frequency of regular  
20 assessments and the style and cause number of lawsuits to which the  
21 property owners' association is a party, other than lawsuits  
22 relating to unpaid ad valorem taxes of an individual member of the  
23 association. These documents must be made available to you by the  
24 property owners' association or the association's agent on your  
25 request.

26 Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Purchaser

1       (a-1) The second paragraph of the notice prescribed by  
2 Subsection (a) must be in bold print and underlined.

3       (f) On the purchaser's request for a resale certificate from  
4 the property owners' association or the association's agent, the  
5 association or its agent shall promptly deliver a copy of the most  
6 recent resale certificate issued for the property under Chapter 207  
7 so long as the resale certificate was prepared not earlier than the  
8 60th day before the date the resale certificate is delivered to the  
9 purchaser and reflects any special assessments approved before and  
10 due after the resale certificate is delivered. If a resale  
11 certificate that meets the requirements of this subsection has not  
12 been issued for the property, the seller shall request the  
13 association or its agent to issue a resale certificate under  
14 Chapter 207, and the association or its agent shall promptly  
15 prepare and deliver a copy of the resale certificate to the  
16 purchaser.

17       (g) The purchaser shall pay the fee to the property owners'  
18 association or its agent for issuing the resale certificate unless  
19 otherwise agreed by the purchaser and seller of the property. The  
20 property owners' association may not process a payment for a resale  
21 certificate requested under Chapter 207 until the certificate is  
22 available for delivery. The association may not charge a fee if the  
23 certificate is not provided in the time prescribed by Section  
24 207.003(a).

25       SECTION 3. Section 51.002, Property Code, is amended by  
26 adding Subsection (i) to read as follows:

27       (i) Notice served under Subsection (b)(3) or (d) must state

1 the name and address of the sender of the notice and contain a  
2 statement that is conspicuous, printed in boldface or underlined  
3 type, and substantially similar to the following: "Assert and  
4 protect your rights as a member of the armed forces of the United  
5 States. If you are or your spouse is serving on active military  
6 duty, including active military duty as a member of the Texas  
7 National Guard or the National Guard of another state or as a member  
8 of a reserve component of the armed forces of the United States,  
9 please send written notice of the active duty military service to  
10 the sender of this notice immediately."

11 SECTION 4. Subsection (a), Section 51.015, Property Code,  
12 is amended by adding Subdivision (1-a) to read as follows:

13 (1-a) "Assessment" and "assessments" have the  
14 meanings assigned by Sections 82.113(a) and 209.002, as applicable.

15 SECTION 5. Subsection (b), Section 51.015, Property Code,  
16 is amended to read as follows:

17 (b) This section applies only to an obligation:

18 (1) that is secured by a mortgage, deed of trust, or  
19 other contract lien, including a lien securing payment of an  
20 assessment or assessments, as applicable, on real property or  
21 personal property that is a dwelling owned by a military  
22 servicemember;

23 (2) that originates before the date on which the  
24 servicemember's active duty military service commences; and

25 (3) for which the servicemember is still obligated.

26 SECTION 6. Subdivision (1), Section 202.001, Property Code,  
27 is amended to read as follows:

1           (1) "Dedictory instrument" means each document  
2 governing [~~instrument covering~~] the establishment, maintenance, or  
3 [~~and~~] operation of a residential subdivision, planned unit  
4 development, condominium or townhouse regime, or any similar  
5 planned development. The term includes a declaration or similar  
6 instrument subjecting real property to:

7           (A) restrictive covenants, bylaws, or similar  
8 instruments governing the administration or operation of a property  
9 owners' association;

10           (B) [~~to~~] properly adopted rules and regulations  
11 of the property owners' association; or

12           (C) [~~or to~~] all lawful amendments to the  
13 covenants, bylaws, instruments, rules, or regulations.

14           SECTION 7. Subsection (c), Section 202.004, Property Code,  
15 is amended to read as follows:

16           (c) For a violation of a restrictive covenant of a property  
17 owners' association that is a mixed-use master association that  
18 existed before January 1, 1974, and that does not have the authority  
19 under a dedicatory instrument or other governing document to impose  
20 finer, a [A] court may assess civil damages [~~for the violation of a~~  
21 restrictive covenant] in an amount not to exceed \$200 for each day  
22 of the violation.

23           SECTION 8. Section 202.006, Property Code, is amended to  
24 read as follows:

25           Sec. 202.006. PUBLIC RECORDS. (a) A property owners'  
26 association shall file all [~~the~~] dedicatory instruments  
27 [~~instrument]~~ in the real property records of each county in which

1 the property to which the dedicatory instruments relate [~~instrument~~  
2 ~~relates~~] is located.

3 (b) A dedicatory instrument has no effect until the  
4 instrument is filed in accordance with this section.

5 SECTION 9. Chapter 202, Property Code, is amended by adding  
6 Sections 202.011, 202.012, and 202.013 to read as follows:

7 Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In  
8 this section, "development period" means a period stated in a  
9 declaration during which a declarant reserves:

10 (1) a right to facilitate the development,  
11 construction, and marketing of the subdivision; and

12 (2) a right to direct the size, shape, and composition  
13 of the subdivision.

14 (b) To the extent a restrictive covenant provides a right of  
15 first refusal for the sale or lease of a residential unit or  
16 residential lot in favor of the property owners' association or the  
17 association's members, the covenant is void.

18 (c) This section does not apply to a restrictive covenant  
19 that provides a right of first refusal in favor of a developer or  
20 builder during the development period.

21 Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In  
22 this section, "solar energy device" has the meaning assigned by  
23 Section 171.107, Tax Code.

24 (b) Except as otherwise provided by this section, a property  
25 owners' association may not include or enforce a provision in a  
26 dedicatory instrument that prohibits or restricts a property owner  
27 from installing a solar energy device.

1 (c) A provision that violates Subsection (b) is void.

2 (d) A property owners' association may include or enforce a  
3 provision in a dedicatory instrument that prohibits a solar energy  
4 device that:

5 (1) as adjudicated by a court:

6 (A) threatens the public health or safety; or

7 (B) violates a law;

8 (2) is located on property owned or maintained by the  
9 property owners' association;

10 (3) is located on property owned in common by the  
11 members of the property owners' association;

12 (4) is located in an area on the property owner's  
13 property other than:

14 (A) on the roof of the home or of another  
15 structure allowed under a dedicatory instrument; or

16 (B) in a fenced yard or patio owned and  
17 maintained by the property owner;

18 (5) if mounted on the roof of the home:

19 (A) extends higher than or beyond the roofline;

20 (B) is located in an area other than an area  
21 designated by the property owners' association, unless the  
22 alternate location increases the estimated annual energy  
23 production of the device, as determined by using a publicly  
24 available modeling tool provided by the National Renewable Energy  
25 Laboratory, by more than 10 percent above the energy production of  
26 the device if located in an area designated by the property owners'  
27 association;

1           (C) does not conform to the slope of the roof and  
2 has a top edge that is not parallel to the roofline; or

3           (D) has a frame, a support bracket, or visible  
4 pipng or wiring that is not in a silver, bronze, or black tone  
5 commonly available in the marketplace;

6           (6) if located in a fenced yard or patio, is taller  
7 than the fence line;

8           (7) as installed, voids material warranties; or

9           (8) was installed without prior approval by the  
10 property owners' association or by a committee created in a  
11 dedicatory instrument for such purposes that provides decisions  
12 within a reasonable period or within a period specified in the  
13 dedicatory instrument.

14           (e) A property owners' association or the association's  
15 architectural review committee may not withhold approval for  
16 installation of a solar energy device if the provisions of the  
17 dedicatory instruments, to the extent authorized by this section,  
18 are met or exceeded, unless the association or committee, as  
19 applicable, determines in writing that placement of the device as  
20 proposed by the property owner constitutes a condition that  
21 substantially interferes with the use and enjoyment of land by  
22 causing unreasonable discomfort or annoyance to persons of ordinary  
23 sensibilities.

24           Sec. 202.013. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS.

25           (a) A dedicatory instrument may not be amended to retroactively  
26 require a person who owns property subject to the dedicatory  
27 instrument at the time the amendment is adopted to make a capital



1 improvement to the owner's property that is not required before the  
2 amendment.

3 (b) For the purposes of this section, "capital improvement"  
4 means items such as additional tree plantings, additional sodding,  
5 fence construction, hardscape installation, new construction, or  
6 any similar capital improvement. The term does not include repair  
7 or maintenance of existing improvements or the removal of  
8 conditions that are in violation of a dedicatory instrument.

9 SECTION 10. Subsections (a), (b), and (c), Section 207.003,  
10 Property Code, are amended to read as follows:

11 (a) Not later than the 10th day after the date a written  
12 request for subdivision information is received from an owner,  
13 owner's agent, or title insurance company or its agent acting on  
14 behalf of the owner, the property owners' association shall deliver  
15 to the owner, owner's agent, or title insurance company or its  
16 agent:

17 (1) a current copy of the restrictions applying to the  
18 subdivision;

19 (2) a current copy of the bylaws and rules of the  
20 property owners' association; and

21 (3) a resale certificate prepared not earlier than the  
22 60th day before the date the certificate is delivered that complies  
23 with Subsection (b).

24 (b) A resale certificate under Subsection (a) must contain:

25 (1) a statement of any right of first refusal, other  
26 than a right of first refusal that is prohibited by statute, and any  
27 [or] other restraint contained in the restrictions or restrictive

1 covenants that restricts the owner's right to transfer the owner's  
2 property;

3 (2) the frequency and amount of any regular  
4 assessments;

5 (3) the amount and purpose of any special assessment  
6 that has been approved before and is due after [~~the date~~] the resale  
7 certificate is delivered [~~prepared~~];

8 (4) the total of all amounts due and unpaid to the  
9 property owners' association that are attributable to the owner's  
10 property;

11 (5) capital expenditures, if any, approved by the  
12 property owners' association for the property owners' association's  
13 current fiscal year;

14 (6) the amount of reserves, if any, for capital  
15 expenditures;

16 (7) the property owners' association's current  
17 operating budget and balance sheet;

18 (8) the total of any unsatisfied judgments against the  
19 property owners' association;

20 (9) the style and cause number of any pending lawsuit  
21 in which the property owners' association is a party, other than a  
22 lawsuit relating to unpaid ad valorem taxes of an individual member  
23 of the association [~~defendant~~];

24 (10) a copy of a certificate of insurance showing the  
25 property owners' association's property and liability insurance  
26 relating to the common areas and common facilities;

27 (11) a description of any conditions on the owner's

1 property that the property owners' association board has actual  
2 knowledge are in violation of the restrictions applying to the  
3 subdivision or the bylaws or rules of the property owners'  
4 association;

5 (12) a summary or copy of notices received by the  
6 property owners' association from any governmental authority  
7 regarding health or housing code violations existing on the  
8 preparation date of the certificate relating to the owner's  
9 property or any common areas or common facilities owned or leased by  
10 the property owners' association;

11 (13) the amount of any administrative transfer fee  
12 charged by the property owners' association for a change of  
13 ownership of property in the subdivision;

14 (14) the name, mailing address, and telephone number  
15 of the property owners' association's managing agent, if any; ~~and~~

16 (15) a statement indicating whether the restrictions  
17 allow foreclosure of a property owners' association's lien on the  
18 owner's property for failure to pay assessments; and

19 (16) a statement of all fees associated with the  
20 transfer of ownership, including a description of each fee, to whom  
21 each fee is paid, and the amount of each fee.

22 (c) A property owners' association may charge a reasonable  
23 fee to assemble, copy, and deliver the information required by this  
24 section and may charge a reasonable fee to prepare and deliver an  
25 update of a resale certificate under Subsection (f). A purchaser  
26 requesting a resale certificate under Section 5.012 or on whose  
27 behalf the resale certificate is requested shall pay the fees

1 charged under this subsection unless otherwise agreed by the  
2 purchaser and seller of the property.

3 SECTION 11. Chapter 207, Property Code, is amended by  
4 adding Section 207.006 to read as follows:

5 Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A  
6 property owners' association shall make dedicatory instruments  
7 relating to the association or subdivision and filed in the county  
8 deed records available on a website if the association has, or a  
9 management company on behalf of the association maintains, a  
10 publicly accessible website.

11 SECTION 12. Section 209.003, Property Code, is amended by  
12 adding Subsection (e) to read as follows:

13 (e) The following provisions of this chapter do not apply to  
14 a property owners' association that is a mixed-use master  
15 association that existed before January 1, 1974, and that does not  
16 have the authority under a dedicatory instrument or other governing  
17 document to impose fines:

- 18 (1) Section 209.005(c);
- 19 (2) Section 209.0056;
- 20 (3) Section 209.0057;
- 21 (4) Section 209.0058;
- 22 (5) Section 209.00592; and
- 23 (6) Section 209.0062.

24 SECTION 13. Chapter 209, Property Code, is amended by  
25 adding Section 209.0041 to read as follows:

26 Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY  
27 INSTRUMENTS. (a) This section applies to a residential

1 subdivision in which property owners are subject to mandatory  
2 membership in a property owners' association.

3 (b) This section does not apply to a property owners'  
4 association that is subject to Chapter 552, Government Code, by  
5 application of Section 552.0036, Government Code.

6 (c) This section does not apply to the amendment of a  
7 declaration during a development period, as defined by Section  
8 202.011.

9 (d) This section applies to a dedicatory instrument  
10 regardless of the date on which the dedicatory instrument was  
11 created.

12 (e) This section supersedes any contrary requirement in a  
13 dedicatory instrument.

14 (f) To the extent of any conflict with another provision of  
15 this title, this section prevails.

16 (g) Except as provided by this subsection, a declaration may  
17 be amended only by a vote of 67 percent of the total votes allocated  
18 to property owners in the property owners' association, in addition  
19 to any governmental approval required by law. If the declaration  
20 contains a lower percentage, the percentage in the declaration  
21 controls.

22 (h) A bylaw may not be amended to conflict with the  
23 declaration.

24 SECTION 14. Section 209.005, Property Code, is amended to  
25 read as follows:

26 Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided  
27 by Subsection (b), this section applies to all property owners'

1 associations and controls over other law not specifically  
2 applicable to a property owners' association.

3 (b) This section does not apply to a property owners'  
4 association that is subject to Chapter 552, Government Code, by  
5 application of Section 552.0036, Government Code.

6 (c) Notwithstanding a provision in a dedicatory instrument,  
7 a [A] property owners' association shall make the books and records  
8 of the association, including financial records, open to and  
9 reasonably available for examination by [to] an owner, or a person  
10 designated in a writing signed by the owner as the owner's agent,  
11 attorney, or certified public accountant, in accordance with this  
12 section. An owner is entitled to obtain from the association copies  
13 of information contained in the books and records [Section B,  
14 Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23,  
15 Vernon's Texas Civil Statutes)].

16 (d) Except as provided by this subsection, an [(a-1) A  
17 property owners' association described by Section 552.0036(2),  
18 Government Code, shall make the books and records of the  
19 association, including financial records, reasonably available to  
20 any person requesting access to the books or records in accordance  
21 with Chapter 552, Government Code. Subsection (a) does not apply to  
22 a property owners' association to which this subsection applies.

23 [(b) An] attorney's files and records relating to the  
24 property owners' association, excluding invoices requested by an  
25 owner under Section 209.008(d), are not[+]

26 [(1)] records of the association and are not[+]

27 [(2)] subject to inspection by the owner[+] or

1           ~~[(3) subject to]~~ production in a legal proceeding. If  
2 a document in an attorney's files and records relating to the  
3 association would be responsive to a legally authorized request to  
4 inspect or copy association documents, the document shall be  
5 produced by using the copy from the attorney's files and records if  
6 the association has not maintained a separate copy of the document.  
7 This subsection does not require production of a document that  
8 constitutes attorney work product or that is privileged as an  
9 attorney-client communication.

10           (e) An owner or the owner's authorized representative  
11 described by Subsection (c) must submit a written request for  
12 access or information under Subsection (c) by certified mail, with  
13 sufficient detail describing the property owners' association's  
14 books and records requested, to the mailing address of the  
15 association or authorized representative as reflected on the most  
16 current management certificate filed under Section 209.004. The  
17 request must contain an election either to inspect the books and  
18 records before obtaining copies or to have the property owners'  
19 association forward copies of the requested books and records and:

20                   (1) if an inspection is requested, the association, on  
21 or before the 10th business day after the date the association  
22 receives the request, shall send written notice of dates during  
23 normal business hours that the owner may inspect the requested  
24 books and records to the extent those books and records are in the  
25 possession, custody, or control of the association; or

26                   (2) if copies of identified books and records are  
27 requested, the association shall, to the extent those books and

1 records are in the possession, custody, or control of the  
2 association, produce the requested books and records for the  
3 requesting party on or before the 10th business day after the date  
4 the association receives the request, except as otherwise provided  
5 by this section.

6 (f) If the property owners' association is unable to produce  
7 the books or records requested under Subsection (e) on or before the  
8 10th business day after the date the association receives the  
9 request, the association must provide to the requestor written  
10 notice that:

11 (1) informs the requestor that the association is  
12 unable to produce the information on or before the 10th business day  
13 after the date the association received the request; and

14 (2) states a date by which the information will be sent  
15 or made available for inspection to the requesting party that is not  
16 later than the 15th business day after the date notice under this  
17 subsection is given.

18 (g) If an inspection is requested or required, the  
19 inspection shall take place at a mutually agreed on time during  
20 normal business hours, and the requesting party shall identify the  
21 books and records for the property owners' association to copy and  
22 forward to the requesting party.

23 (h) A property owners' association may produce books and  
24 records requested under this section in hard copy, electronic, or  
25 other format reasonably available to the association.

26 (i) A property owners' association board must adopt a  
27 records production and copying policy that prescribes the costs the



1 association will charge for the compilation, production, and  
2 reproduction of information requested under this section. The  
3 prescribed charges may include all reasonable costs of materials,  
4 labor, and overhead but may not exceed costs that would be  
5 applicable for an item under Section 552.261, Government Code. The  
6 policy required by this subsection must be recorded as a dedicatory  
7 instrument in accordance with Section 202.006. An association may  
8 not charge an owner for the compilation, production, or  
9 reproduction of information requested under this section unless the  
10 policy prescribing those costs has been recorded as required by  
11 this subsection. An owner is responsible for costs related to the  
12 compilation, production, and reproduction of the requested  
13 information in the amounts prescribed by the policy adopted under  
14 this subsection. The association may require advance payment of  
15 the estimated costs of compilation, production, and reproduction of  
16 the requested information. If the estimated costs are lesser or  
17 greater than the actual costs, the association shall submit a final  
18 invoice to the owner on or before the 30th business day after the  
19 date the information is delivered. If the final invoice includes  
20 additional amounts due from the owner, the additional amounts, if  
21 not reimbursed to the association before the 30th business day  
22 after the date the invoice is sent to the owner, may be added to the  
23 owner's account as an assessment. If the estimated costs exceeded  
24 the final invoice amount, the owner is entitled to a refund, and the  
25 refund shall be issued to the owner not later than the 30th business  
26 day after the date the invoice is sent to the owner.

27 (j) A property owners' association must estimate costs

1 under this section using amounts prescribed by the policy adopted  
2 under Subsection (i).

3 (k) Except as provided by Subsection (l) and to the extent  
4 the information is provided in the meeting minutes, the property  
5 owners' association is not required to release or allow inspection  
6 of any books or records that identify the dedicatory instrument  
7 violation history of an individual owner of an association, an  
8 owner's personal financial information, including records of  
9 payment or nonpayment of amounts due the association, an owner's  
10 contact information, other than the owner's address, or information  
11 related to an employee of the association, including personnel  
12 files. Information may be released in an aggregate or summary  
13 manner that would not identify an individual property owner.

14 (l) The books and records described by Subsection (k) shall  
15 be released or made available for inspection if:

16 (1) the express written approval of the owner whose  
17 records are the subject of the request for inspection is provided to  
18 the property owners' association; or

19 (2) a court orders the release of the books and records  
20 or orders that the books and records be made available for  
21 inspection.

22 (m) A property owners' association composed of more than 14  
23 lots shall adopt and comply with a document retention policy that  
24 includes, at a minimum, the following requirements:

25 (1) certificates of formation, bylaws, restrictive  
26 covenants, and all amendments to the certificates of formation,  
27 bylaws, and covenants shall be retained permanently;

1           (2) financial books and records shall be retained for  
2 seven years;

3           (3) account records of current owners shall be  
4 retained for five years;

5           (4) contracts with a term of one year or more shall be  
6 retained for four years after the expiration of the contract term;

7           (5) minutes of meetings of the owners and the board  
8 shall be retained for seven years; and

9           (6) tax returns and audit records shall be retained  
10 for seven years.

11           (n) A member of a property owners' association who is denied  
12 access to or copies of association books or records to which the  
13 member is entitled under this section may file a petition with the  
14 justice of the peace of a justice precinct in which all or part of  
15 the property that is governed by the association is located  
16 requesting relief in accordance with this subsection. If the  
17 justice of the peace finds that the member is entitled to access to  
18 or copies of the records, the justice of the peace may grant one or  
19 more of the following remedies:

20           (1) a judgment ordering the property owners'  
21 association to release or allow access to the books or records;

22           (2) a judgment against the property owners'  
23 association for court costs and attorney's fees incurred in  
24 connection with seeking a remedy under this section; or

25           (3) a judgment authorizing the owner or the owner's  
26 assignee to deduct the amounts awarded under Subdivision (2) from  
27 any future regular or special assessments payable to the property

1 owners' association.

2 (o) If the property owners' association prevails in an  
3 action under Subsection (n), the association is entitled to a  
4 judgment for court costs and attorney's fees incurred by the  
5 association in connection with the action.

6 (p) On or before the 10th business day before the date a  
7 person brings an action against a property owners' association  
8 under this section, the person must send written notice to the  
9 association of the person's intent to bring the action. The notice  
10 must:

11 (1) be sent certified mail, return receipt requested,  
12 or delivered by the United States Postal Service with signature  
13 confirmation service; and

14 (2) describe with sufficient detail the books and  
15 records being requested.

16 (q) For the purposes of this section, "business day" means a  
17 day other than Saturday, Sunday, or a state or federal holiday.

18 SECTION 15. Chapter 209, Property Code, is amended by  
19 adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,  
20 209.00591, 209.00592, and 209.00593 to read as follows:

21 Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does  
22 not apply to a property owners' association that is subject to  
23 Chapter 551, Government Code, by application of Section 551.0015,  
24 Government Code.

25 (b) In this section, "board meeting" means a deliberation  
26 between a quorum of the voting board of the property owners'  
27 association, or between a quorum of the voting board and another

1 person, during which property owners' association business is  
2 considered and the board takes formal action. The term does not  
3 include the gathering of a quorum of the board at a social function  
4 unrelated to the business of the association or the attendance by a  
5 quorum of the board at a regional, state, or national convention,  
6 ceremonial event, or press conference, if formal action is not  
7 taken and any discussion of association business is incidental to  
8 the social function, convention, ceremonial event, or press  
9 conference.

10 (c) Regular and special board meetings must be open to  
11 owners, subject to the right of the board to adjourn a board meeting  
12 and reconvene in closed executive session to consider actions  
13 involving personnel, pending or threatened litigation, contract  
14 negotiations, enforcement actions, confidential communications  
15 with the property owners' association's attorney, matters involving  
16 the invasion of privacy of individual owners, or matters that are to  
17 remain confidential by request of the affected parties and  
18 agreement of the board. Following an executive session, any  
19 decision made in the executive session must be summarized orally  
20 and placed in the minutes, in general terms, without breaching the  
21 privacy of individual owners, violating any privilege, or  
22 disclosing information that was to remain confidential at the  
23 request of the affected parties. The oral summary must include a  
24 general explanation of expenditures approved in executive session.

25 (c-1) Except for a meeting held by electronic or telephonic  
26 means under Subsection (h), a board meeting must be held in a county  
27 in which all or part of the property in the subdivision is located

1 or in a county adjacent to that county.

2 (d) The board shall keep a record of each regular or special  
3 board meeting in the form of written minutes of the meeting. The  
4 board shall make meeting records, including approved minutes,  
5 available to a member for inspection and copying on the member's  
6 written request to the property owners' association's managing  
7 agent at the address appearing on the most recently filed  
8 management certificate or, if there is not a managing agent, to the  
9 board.

10 (e) Members shall be given notice of the date, hour, place,  
11 and general subject of a regular or special board meeting,  
12 including a general description of any matter to be brought up for  
13 deliberation in executive session. The notice shall be:

14 (1) mailed to each property owner not later than the  
15 10th day or earlier than the 60th day before the date of the  
16 meeting; or

17 (2) provided at least 72 hours before the start of the  
18 meeting by:

19 (A) posting the notice in a conspicuous manner  
20 reasonably designed to provide notice to property owners'  
21 association members:

22 (i) in a place located on the association's  
23 common property or, with the property owner's consent, on other  
24 conspicuously located privately owned property within the  
25 subdivision; or

26 (ii) on any Internet website maintained by  
27 the association or other Internet media; and

1           (B) sending the notice by e-mail to each owner  
2 who has registered an e-mail address with the association.

3           (f) It is an owner's duty to keep an updated e-mail address  
4 registered with the property owners' association under Subsection  
5 (e)(2)(B).

6           (g) If the board recesses a regular or special board meeting  
7 to continue the following regular business day, the board is not  
8 required to post notice of the continued meeting if the recess is  
9 taken in good faith and not to circumvent this section. If a  
10 regular or special board meeting is continued to the following  
11 regular business day, and on that following day the board continues  
12 the meeting to another day, the board shall give notice of the  
13 continuation in at least one manner prescribed by Subsection  
14 (e)(2)(A) within two hours after adjourning the meeting being  
15 continued.

16           (h) A board may meet by any method of communication,  
17 including electronic and telephonic, without prior notice to owners  
18 under Subsection (e), if each director may hear and be heard by  
19 every other director, or the board may take action by unanimous  
20 written consent to consider routine and administrative matters or a  
21 reasonably unforeseen emergency or urgent necessity that requires  
22 immediate board action. Any action taken without notice to owners  
23 under Subsection (e) must be summarized orally, including an  
24 explanation of any known actual or estimated expenditures approved  
25 at the meeting, and documented in the minutes of the next regular or  
26 special board meeting. The board may not, without prior notice to  
27 owners under Subsection (e), consider or vote on:

- 1           (1) fines;  
2           (2) damage assessments;  
3           (3) initiation of foreclosure actions;  
4           (4) initiation of enforcement actions, excluding  
5 temporary restraining orders or violations involving a threat to  
6 health or safety;  
7           (5) increases in assessments;  
8           (6) levying of special assessments;  
9           (7) appeals from a denial of architectural control  
10 approval; or  
11           (8) a suspension of a right of a particular owner  
12 before the owner has an opportunity to attend a board meeting to  
13 present the owner's position, including any defense, on the issue.  
14           (i) This section applies to a meeting of a property owners'  
15 association board during the development period, as defined by  
16 Section 202.011, only if the meeting is conducted for the purpose  
17 of:  
18           (1) adopting or amending the governing documents,  
19 including declarations, bylaws, rules, and regulations of the  
20 association;  
21           (2) increasing the amount of regular assessments of  
22 the association or adopting or increasing a special assessment;  
23           (3) electing non-developer board members of the  
24 association or establishing a process by which those members are  
25 elected; or  
26           (4) changing the voting rights of members of the  
27 association.



1 Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

2 (a) Not later than the 10th day or earlier than the 60th day before  
3 the date of an election or vote, a property owners' association  
4 shall give written notice of the election or vote to:

5 (1) each owner of property in the property owners'  
6 association, for purposes of an association-wide election or vote;  
7 or

8 (2) each owner of property in the property owners'  
9 association entitled under the dedicatory instruments to vote in a  
10 particular representative election, for purposes of a vote that  
11 involves election of representatives of the association who are  
12 vested under the dedicatory instruments of the property owners'  
13 association with the authority to elect or appoint board members of  
14 the property owners' association.

15 (b) This section supersedes any contrary requirement in a  
16 dedicatory instrument.

17 (c) This section does not apply to a property owners'  
18 association that is subject to Chapter 552, Government Code, by  
19 application of Section 552.0036, Government Code.

20 Sec. 209.0057. RECOUNT OF VOTES. (a) This section does  
21 not apply to a property owners' association that is subject to  
22 Chapter 552, Government Code, by application of Section 552.0036,  
23 Government Code.

24 (b) Any owner may, not later than the 15th day after the date  
25 of the meeting at which the election was held, require a recount of  
26 the votes. A demand for a recount must be submitted in writing  
27 either:

1           (1) by certified mail, return receipt requested, or by  
2 delivery by the United States Postal Service with signature  
3 confirmation service to the property owners' association's mailing  
4 address on the latest management certificate filed under Section  
5 209.004; or

6           (2) in person to the property owners' association's  
7 managing agent as reflected on the latest management certificate  
8 filed under Section 209.004 or to the address to which absentee and  
9 proxy ballots are mailed.

10          (c) The property owners' association shall, at the expense  
11 of the owner requesting the recount, retain for the purpose of  
12 performing the recount, the services of a person qualified to  
13 tabulate votes under this subsection. The association shall enter  
14 into a contract for the services of a person who:

15           (1) is not a member of the association or related to a  
16 member of the association board within the third degree by  
17 consanguinity or affinity, as determined under Chapter 573,  
18 Government Code; and

19           (2) is:

20                   (A) a current or former:

21                           (i) county judge;

22                           (ii) county elections administrator;

23                           (iii) justice of the peace; or

24                           (iv) county voter registrar; or

25                   (B) a person agreed on by the association and the  
26 persons requesting the recount.

27          (d) Any recount under Subsection (b) must be performed on or

1 before the 30th day after the date of receipt of a request and  
2 payment for a recount in accordance with Subsections (b) and (c).  
3 If the recount changes the results of the election, the property  
4 owners' association shall reimburse the requesting owner for the  
5 cost of the recount. The property owners' association shall  
6 provide the results of the recount to each owner who requested the  
7 recount. Any action taken by the board in the period between the  
8 initial election vote tally and the completion of the recount is not  
9 affected by any recount.

10 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election  
11 or vote by a member of a property owners' association must be in  
12 writing and signed by the member.

13 (b) Electronic votes cast under Section 209.00592  
14 constitute written and signed ballots.

15 (c) In an association-wide election, written and signed  
16 ballots are not required for uncontested races.

17 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a  
18 dedicatory instrument that would disqualify a property owner from  
19 voting in a property owners' association election of board members  
20 or on any matter concerning the rights or responsibilities of the  
21 owner is void.

22 (b) This section does not apply to a property owners'  
23 association that is subject to Chapter 552, Government Code, by  
24 application of Section 552.0036, Government Code.

25 Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided  
26 by this section, a provision in a dedicatory instrument that  
27 restricts a property owner's right to run for a position on the

1 board of the property owners' association is void.

2 (b) If a board is presented with written, documented  
3 evidence from a database or other record maintained by a  
4 governmental law enforcement authority that a board member has been  
5 convicted of a felony or crime involving moral turpitude, the board  
6 member is immediately ineligible to serve on the board of the  
7 property owners' association, automatically considered removed  
8 from the board, and prohibited from future service on the board.

9 (c) The declaration may provide for a period of declarant  
10 control of the association during which a declarant, or persons  
11 designated by the declarant, may appoint and remove board members  
12 and the officers of the association, other than board members or  
13 officers elected by members of the property owners' association.  
14 Regardless of the period of declarant control provided by the  
15 declaration, on or before the 120th day after the date 75 percent of  
16 the lots that may be created and made subject to the declaration are  
17 conveyed to owners other than a declarant, at least one-third of the  
18 board members must be elected by owners other than the declarant.  
19 If the declaration does not include the number of lots that may be  
20 created and made subject to the declaration, at least one-third of  
21 the board members must be elected by owners other than the declarant  
22 not later than the 10th anniversary of the date the declaration was  
23 recorded.

24 Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of  
25 an owner may be cast or given:

26 (1) in person or by proxy at a meeting of the property  
27 owners' association;

1           (2) by absentee ballot in accordance with this  
2 section;

3           (3) by electronic ballot in accordance with this  
4 section; or

5           (4) by any method of representative or delegated  
6 voting provided by a dedicatory instrument.

7           (b) An absentee or electronic ballot:

8           (1) may be counted as an owner present and voting for  
9 the purpose of establishing a quorum only for items appearing on the  
10 ballot;

11           (2) may not be counted, even if properly delivered, if  
12 the owner attends any meeting to vote in person, so that any vote  
13 cast at a meeting by a property owner supersedes any vote submitted  
14 by absentee or electronic ballot previously submitted for that  
15 proposal; and

16           (3) may not be counted on the final vote of a proposal  
17 if the motion was amended at the meeting to be different from the  
18 exact language on the absentee or electronic ballot.

19           (c) A solicitation for votes by absentee ballot must  
20 include:

21           (1) an absentee ballot that contains each proposed  
22 action and provides an opportunity to vote for or against each  
23 proposed action;

24           (2) instructions for delivery of the completed  
25 absentee ballot, including the delivery location; and

26           (3) the following language: "By casting your vote via  
27 absentee ballot you will forgo the opportunity to consider and vote

1 on any action from the floor on these proposals, if a meeting is  
2 held. This means that if there are amendments to these proposals  
3 your votes will not be counted on the final vote on these measures.  
4 If you desire to retain this ability, please attend any meeting in  
5 person. You may submit an absentee ballot and later choose to  
6 attend any meeting in person, in which case any in-person vote will  
7 prevail."

8 (d) For the purposes of this section, "electronic ballot"  
9 means a ballot:

10 (1) given by:

11 (A) e-mail;

12 (B) facsimile; or

13 (C) posting on an Internet website;

14 (2) for which the identity of the property owner  
15 submitting the ballot can be confirmed; and

16 (3) for which the property owner may receive a receipt  
17 of the electronic transmission and receipt of the owner's ballot.

18 (e) If an electronic ballot is posted on an Internet  
19 website, a notice of the posting shall be sent to each owner that  
20 contains instructions on obtaining access to the posting on the  
21 website.

22 (f) This section supersedes any contrary provision in a  
23 dedicatory instrument.

24 (g) This section does not apply to a property owners'  
25 association that is subject to Chapter 552, Government Code, by  
26 application of Section 552.0036, Government Code.

27 Sec. 209.00593. ELECTION OF BOARD MEMBERS.

1 (a) Notwithstanding any provision in a dedicatory instrument, any  
2 board member whose term has expired must be elected by owners who  
3 are members of the property owners' association. A board member may  
4 be appointed by the board only to fill a vacancy caused by a  
5 resignation, death, or disability. A board member appointed to  
6 fill a vacant position shall serve the unexpired term of the  
7 predecessor board member.

8 (b) The board of a property owners' association may amend  
9 the bylaws of the property owners' association to provide for  
10 elections to be held as required by Subsection (a).

11 (c) The appointment of a board member in violation of this  
12 section is void.

13 (d) This section does not apply to the appointment of a  
14 board member during a development period, as defined by Section  
15 202.011.

16 (e) This section does not apply to a representative board  
17 whose members or delegates are elected or appointed by  
18 representatives of a property owners' association who are elected  
19 by owner members of a property owners' association.

20 SECTION 16. Subsection (b), Section 209.006, Property Code,  
21 is amended to read as follows:

22 (b) The notice must:

23 (1) describe the violation or property damage that is  
24 the basis for the suspension action, charge, or fine and state any  
25 amount due the association from the owner; and

26 (2) inform the owner that the owner:

27 (A) is entitled to a reasonable period to cure

1 the violation and avoid the fine or suspension unless the owner was  
2 given notice and a reasonable opportunity to cure a similar  
3 violation within the preceding six months; and

4 (B) may request a hearing under Section 209.007  
5 on or before the 30th day after the date notice was delivered to the  
6 owner [~~receives the notice~~].

7 SECTION 17. Chapter 209, Property Code, is amended by  
8 adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read  
9 as follows:

10 Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed  
11 by the property owners' association must be reasonable in the  
12 context of the nature and frequency of the violation and the effect  
13 of the violation on the subdivision as a whole. If the association  
14 allows fines for a continuing violation to accumulate against a lot  
15 or an owner, the association must establish a reasonable maximum  
16 fine amount for a continuing violation at which point the total fine  
17 amount is capped.

18 (b) If a lot occupant other than the owner violates a  
19 provision of the dedicatory instrument, the property owners'  
20 association, in addition to exercising any of the association's  
21 powers against the owner, may assess a fine directly against the  
22 nonowner occupant in the same manner as provided for an owner but  
23 may not require payment from both the owner and a nonowner occupant  
24 for the same violation.

25 (c) If the property owners' association assesses a fine  
26 against a nonowner occupant under this section, the notice  
27 provisions of Section 209.006 and the hearing provisions of Section



1 209.007 apply to the nonowner occupant in the same manner as those  
2 provisions apply to an owner.

3 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN  
4 ASSESSMENTS. (a) A property owners' association composed of more  
5 than 14 lots shall adopt reasonable guidelines to establish an  
6 alternative payment schedule by which an owner may make partial  
7 payments to the property owners' association for delinquent regular  
8 or special assessments or any other amount owed to the association  
9 without accruing additional monetary penalties. For purposes of  
10 this section, monetary penalties do not include reasonable costs  
11 associated with administering the payment plan or interest.

12 (b) The minimum term for a payment plan offered by a  
13 property owners' association is three months.

14 (c) A property owners' association is not required to allow  
15 a payment plan for any amount that extends more than 18 months from  
16 the date of the owner's request for a payment plan or to enter into a  
17 payment plan with an owner who failed to honor the terms of a  
18 previous payment plan during the two years following the owner's  
19 default under the previous payment plan.

20 (d) A property owners' association shall file the  
21 association's guidelines under this section in the real property  
22 records of each county in which the subdivision is located.

23 (e) A property owners' association's failure to file as  
24 required by this section the association's guidelines in the real  
25 property records of each county in which the subdivision is located  
26 does not prohibit a property owner from receiving an alternative  
27 payment schedule by which the owner may make partial payments to the

1 property owners' association for delinquent regular or special  
2 assessments or any other amount owed to the association without  
3 accruing additional monetary penalties, as defined by Subsection  
4 (a).

5 Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as  
6 provided by Subsection (b), a payment received by a property  
7 owners' association from the owner shall be applied to the owner's  
8 debt in the following order of priority:

9 (1) any delinquent assessment;

10 (2) any current assessment;

11 (3) any attorney's fees or third party collection  
12 costs incurred by the association associated solely with  
13 assessments or any other charge that could provide the basis for  
14 foreclosure;

15 (4) any attorney's fees incurred by the association  
16 that are not subject to Subdivision (3);

17 (5) any fines assessed by the association; and

18 (6) any other amount owed to the association.

19 (b) If, at the time the property owners' association  
20 receives a payment from a property owner, the owner is in default  
21 under a payment plan entered into with the association:

22 (1) the association is not required to apply the  
23 payment in the order of priority specified by Subsection (a); and

24 (2) in applying the payment, a fine assessed by the  
25 association may not be given priority over any other amount owed to  
26 the association.

27 Sec. 209.0064. THIRD PARTY COLLECTIONS. Before a property

1 owners' association may assess the account of an owner for  
2 reimbursement of reasonable attorney's fees and other reasonable  
3 costs payable by the association to another party or billed by a  
4 third party to the association on a contingency basis and that are  
5 related to collecting assessments or other amounts owed the  
6 association by the owner, the association must provide a notice to  
7 the owner by certified mail, return receipt requested, that:

8 (1) specifies each delinquent amount and the total  
9 amount of the payment required to make the account current;

10 (2) describes the options the owner has to avoid  
11 liability for attorney's fees or other costs related to collection  
12 of those amounts, including information regarding the availability  
13 of a payment plan through the association; and

14 (3) provides a period of at least 30 days for the owner  
15 to cure the delinquency before further action is taken by the  
16 association.

17 SECTION 18. Section 209.009, Property Code, is amended to  
18 read as follows:

19 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN  
20 CIRCUMSTANCES. A property owners' association may not foreclose a  
21 property owners' association's assessment lien if the debt securing  
22 the lien consists solely of:

23 (1) fines assessed by the association; ~~or~~

24 (2) attorney's fees incurred by the association solely  
25 associated with fines assessed by the association; or

26 (3) amounts added to the owner's account as an  
27 assessment under Section 209.005(i).

1 SECTION 19. Chapter 209, Property Code, is amended by  
2 adding Sections 209.0091, 209.0092, and 209.0093 to read as  
3 follows:

4 Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except  
5 as provided by Subsection (c) and subject to Section 209.009, a  
6 property owners' association may not foreclose a property owners'  
7 association assessment lien unless the association first obtains a  
8 court order in an application for expedited foreclosure under the  
9 rules adopted by the supreme court under Subsection (b). A property  
10 owners' association may use the procedure described by this  
11 subsection to foreclose any lien described by the association's  
12 dedicatory instruments.

13 (b) The supreme court, as an exercise of the court's  
14 authority under Section 74.024, Government Code, shall adopt rules  
15 establishing expedited foreclosure proceedings for use by a  
16 property owners' association in foreclosing an assessment lien of  
17 the association. The rules adopted under this subsection must be  
18 substantially similar to the rules adopted by the supreme court  
19 under Section 50(r), Article XVI, Texas Constitution.

20 (c) Expedited foreclosure is not required under this  
21 section if the owner of the property that is subject to foreclosure  
22 agrees in writing at the time the foreclosure is sought to waive  
23 expedited foreclosure under this section. A waiver under this  
24 subsection may not be required as a condition of the transfer of  
25 title to real property.

26 Sec. 209.0092. REMOVAL OR ADOPTION OF FORECLOSURE  
27 AUTHORITY. A provision granting a right to foreclose a lien on real

1 property for unpaid amounts due to a property owners' association  
2 may be removed from a dedicatory instrument or adopted in a  
3 dedicatory instrument by a vote of at least 67 percent of the total  
4 votes allocated to property owners in the property owners'  
5 association. Owners holding at least 10 percent of all voting  
6 interests in the property owners' association may petition the  
7 association and require a special meeting to be called for the  
8 purposes of taking a vote for the purposes of this section.

9 Sec. 209.0093. ASSESSMENT LIEN FILING. A lien, lien  
10 affidavit, or other instrument evidencing the nonpayment of  
11 assessments or other charges owed to a property owners' association  
12 and filed in the official public records of a county is a legal  
13 instrument affecting title to real property.

14 SECTION 20. Subsection (a), Section 209.010, Property Code,  
15 is amended to read as follows:

16 (a) A property owners' association that conducts a  
17 foreclosure sale of an owner's lot must send to the lot owner and to  
18 each lienholder of record, not later than the 30th day after the  
19 date of the foreclosure sale:

20 (1) [7] a written notice stating the date and time the  
21 sale occurred and informing the lot owner and each lienholder of  
22 record of the right of the lot owner and lienholder to redeem the  
23 property under Section 209.011; and

24 (2) a copy of Section 209.011.

25 SECTION 21. Chapter 209, Property Code, is amended by  
26 adding Section 209.014 to read as follows:

27 Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO

1 CALL REGULAR MEETING. (a) Notwithstanding any provision in a  
2 dedicatory instrument, a board of a property owners' association  
3 shall call an annual meeting of the members of the association.

4 (b) If a board of a property owners' association does not  
5 call an annual meeting of the association members, an owner may  
6 demand that a meeting of the association members be called not later  
7 than the 30th day after the date of the owner's demand. The owner's  
8 demand must be made in writing and sent by certified mail, return  
9 receipt requested, to the registered agent of the property owners'  
10 association and to the association at the address for the  
11 association according to the most recently filed management  
12 certificate. A copy of the notice must be sent to each property  
13 owner who is a member of the association.

14 (c) If the board does not call a meeting of the members of  
15 the property owners' association on or before the 30th day after the  
16 date of a demand under Subsection (b), three or more owners may form  
17 an election committee. The election committee shall file written  
18 notice of the committee's formation with the county clerk of each  
19 county in which the subdivision is located.

20 (d) A notice filed by an election committee must contain:

21 (1) a statement that an election committee has been  
22 formed to call a meeting of owners who are members of the property  
23 owners' association for the sole purpose of electing board members;

24 (2) the name and residential address of each committee  
25 member; and

26 (3) the name of the subdivision over which the  
27 property owners' association has jurisdiction under a dedicatory

1 instrument.

2 (e) Each committee member must sign and acknowledge the  
3 notice before a notary or other official authorized to take  
4 acknowledgments.

5 (f) The county clerk shall enter on the notice the date the  
6 notice is filed and record the notice in the county's real property  
7 records.

8 (g) Only one committee in a subdivision may operate under  
9 this section at one time. If more than one committee in a  
10 subdivision files a notice, the first committee that files a  
11 notice, after having complied with all other requirements of this  
12 section, is the committee with the power to act under this section.  
13 A committee that does not hold or conduct a successful election  
14 within four months after the date the notice is filed with the  
15 county clerk is dissolved by operation of law. An election held or  
16 conducted by a dissolved committee is ineffective for any purpose  
17 under this section.

18 (h) The election committee may call meetings of the owners  
19 who are members of the property owners' association for the sole  
20 purpose of electing board members. Notice, quorum, and voting  
21 provisions contained in the bylaws of the property owners'  
22 association apply to any meeting called by the election committee.

23 SECTION 22. Subsection (a), Section 211.002, Property Code,  
24 is amended to read as follows:

25 (a) This chapter applies only to a residential real estate  
26 subdivision or any unit or parcel of a subdivision to which another  
27 chapter in this title that provides a procedure under which a

1 subdivision's restrictions may for general purposes be amended does  
2 not apply [~~located in whole or in part within an unincorporated area~~  
3 ~~of a county if the county has a population of less than 65,000~~].

4 SECTION 23. (a) Subsection (a), Section 5.006, and  
5 Subsection (c), Section 202.004, Property Code, as amended by this  
6 Act, apply only to an action filed on or after the effective date of  
7 this Act. An action filed before the effective date of this Act is  
8 governed by the law in effect immediately before the effective date  
9 of this Act, and that law is continued in effect for that purpose.

10 (b) Section 5.012, Property Code, as amended by this Act,  
11 applies only to a sale of property that occurs on or after the  
12 effective date of this Act. For the purposes of this subsection, a  
13 sale of property occurs before the effective date of this Act if the  
14 executory contract binding the purchaser to purchase the property  
15 is executed before that date. A sale of property that occurs before  
16 the effective date of this Act is governed by the law in effect  
17 immediately before that date, and that law is continued in effect  
18 for that purpose.

19 (c) Section 51.015, Property Code, as amended by this Act,  
20 applies only to the levy of an assessment or assessments as  
21 described by Section 51.015, Property Code, as amended by this Act,  
22 the effective date of which is on or after the effective date of  
23 this Act. A levy of an assessment or assessments the effective date  
24 of which is before the effective date of this Act is governed by the  
25 law as it existed immediately before the effective date of this Act,  
26 and that law is continued in effect for that purpose.

27 (d) Section 202.006, Property Code, as amended by this Act,



1 and Sections 202.011, 202.012, and 209.0059 and Subsection (a),  
2 Section 209.00592, Property Code, as added by this Act, apply to a  
3 provision in a dedicatory instrument or a restrictive covenant  
4 enacted before, on, or after the effective date of this Act, except  
5 that any action taken before the effective date of this Act based on  
6 an unfiled dedicatory instrument is not invalidated by Section  
7 202.006, Property Code, as amended by this Act.

8 (e) Sections 207.003 and 209.005, Property Code, as amended  
9 by this Act, apply only to a request for information received by a  
10 property owners' association on or after the effective date of this  
11 Act. A request for information received by a property owners'  
12 association before the effective date of this Act is governed by the  
13 law in effect immediately before the effective date of this Act, and  
14 that law is continued in effect for that purpose.

15 (f) Subsection (m), Section 209.005, Property Code, as  
16 added by this Act, applies only with respect to books and records  
17 generated on or after the effective date of this Act. Books and  
18 records generated before the effective date of this Act are  
19 governed by the law in effect immediately before the effective date  
20 of this Act, and that law is continued in effect for that purpose.

21 (g) Section 209.006, Property Code, as amended by this Act,  
22 applies only to an enforcement action initiated by a property  
23 owners' association on or after the effective date of this Act. An  
24 enforcement action initiated before the effective date of this Act  
25 is governed by the law in effect immediately before the effective  
26 date of this Act, and that law is continued in effect for that  
27 purpose.

1           (h) Section 209.0062, Property Code, as added by this Act,  
2 applies only to an assessment or other debt that becomes due on or  
3 after the effective date of this Act. An assessment or other debt  
4 that becomes due before the effective date of this Act is governed  
5 by the law in effect immediately before the effective date of this  
6 Act, and that law is continued in effect for that purpose.

7           (i) Section 209.0063, Property Code, as added by this Act,  
8 applies only to a payment received by a property owners'  
9 association on or after the effective date of this Act. A payment  
10 received by a property owners' association before the effective  
11 date of this Act is governed by the law in effect immediately before  
12 the effective date of this Act, and that law is continued in effect  
13 for that purpose.

14           (j) Section 209.0091, Property Code, as added by this Act,  
15 and Subsection (a), Section 209.010, Property Code, as amended by  
16 this Act, apply only to a foreclosure sale conducted on or after the  
17 effective date of this Act. A foreclosure sale conducted before the  
18 effective date of this Act is governed by the law in effect  
19 immediately before the effective date of this Act, and that law is  
20 continued in effect for that purpose.

21           (k) Section 209.0093, Property Code, as added by this Act,  
22 applies only to an instrument filed on or after January 1, 2012. An  
23 instrument filed before January 1, 2012, is governed by the law in  
24 effect on the date the instrument was filed, and that law is  
25 continued in effect for that purpose.

26           (l) Section 209.014, Property Code, as added by this Act,  
27 applies to a property owners' association created before, on, or

1 after the effective date of this Act.

2           SECTION 24. Not later than January 1, 2012, each property  
3 owners' association shall present for recording with the county  
4 clerk as prescribed by Section 202.006, Property Code, as amended  
5 by this Act, each dedicatory instrument governing the association  
6 that has not been previously recorded in the real property records  
7 of the county.

8           SECTION 25. Not later than January 1, 2012, the Supreme  
9 Court of Texas shall adopt rules of civil procedure under Section  
10 209.0091, Property Code, as added by this Act.

11           SECTION 26. (a) Except as provided by Subsection (b) of  
12 this section, this Act takes effect January 1, 2012.

13           (b) Subsection (b), Section 209.0091, Property Code, as  
14 added by this Act, takes effect September 1, 2011.